

§ 30.506

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subtracted from any unpaid EEOICPA benefits. Allowable deductions consist of attorney's fees OWCP deems reasonable, and itemized costs of suit (out-of-pocket expenditures not part of the normal overhead of a law firm's operation like filing fees, travel expenses, witness fees, and court reporter costs for transcripts) provided that adequate supporting documentation is submitted to OWCP.

(iii) The EEOICPA benefits that will be reduced will consist of any unpaid lump-sum payments payable in the future and medical benefits payable in the future. In those cases where it has not yet paid EEOICPA benefits, OWCP will reduce such benefits on a dollar-for-dollar basis, beginning with the lump-sum payments first. If the amount to be subtracted exceeds the lump-sum payments, OWCP will reduce ongoing EEOICPA medical benefits payable in the future by the amount of any remaining surplus. This means that OWCP will apply the amount it would otherwise pay to reimburse the covered Part B employee or the covered Part E employee for any ongoing EEOICPA medical treatment to the remaining surplus until it is absorbed. In addition to this reduction of ongoing EEOICPA medical benefits, OWCP will not be the first payer for any medical expenses that are the responsibility of another party (who will instead be the first payer) as part of a final judgment or settlement in litigation seeking damages.

(3) The above reduction of EEOICPA benefits will not occur if an EEOICPA claimant has had his or her workers' compensation benefits or award under section 5 of RECA reduced by the full amount of a payment made pursuant to a final judgment or settlement in litigation seeking damages. The above reduction will also not occur if an EEOICPA claimant's prior payment of EEOICPA benefits was offset to reflect the full amount of a payment made pursuant to a final judgment or settlement in litigation seeking damages. In those situations, OWCP will not reduce currently payable EEOICPA benefits by the same amount (but will reduce those benefits by the amount of any surplus final judgment or settlement payment that remains).

(c) Except as provided in § 30.506(b), when OWCP has verified the identity of every claimant who is entitled to the compensation payment, or to a share of the compensation payment, and has determined the correct amount of the payment or the share of the payment, OWCP shall notify every claimant, every duly appointed guardian or conservator of a claimant, or every person with power of attorney for a claimant, and require such person or persons to complete a Form EN-20 providing payment information. Such form shall be signed and returned to OWCP within sixty days of the date of the form or within such greater period as may be allowed by OWCP. Failure to sign and return the form within the required time may be deemed to be a rejection of the payment. If the claimant dies before the payment is received, the person who receives the payment shall return it to OWCP for redetermination of the correct disbursement of the payment. No payment shall be made until OWCP has made a determination concerning the survivors related to a respective claim for benefits.

(d) The total amount of compensation (other than medical benefits) under Part E that can be paid to all claimants as a result of the exposure of a covered Part E employee shall not be more than \$250,000 in any circumstances.

§ 30.506 To whom and in what manner will OWCP pay compensation?

(a) Except with respect to claims under Part B of the Act for beryllium sensitivity, payment shall be made to the covered Part B employee or the covered Part E employee, to the duly appointed guardian or conservator of that individual, or to the person with power of attorney for that individual, unless the covered Part B employee or covered Part E employee is deceased at the time of the payment. In all cases involving a deceased covered Part B employee or deceased covered Part E employee, payment shall be made to the eligible surviving beneficiary or beneficiaries, to the duly appointed guardian or conservator of the eligible surviving beneficiary or beneficiaries,

or to every person with power of attorney for an eligible surviving beneficiary, in accordance with the terms and conditions specified in sections 7384s(e), 7384u(e), and 7385s-3(c) and (d) of EEOICPA.

(b) Under Part B of the Act, compensation for any consequential injury, illness, impairment or disease is limited to payment of medical benefits for that injury, illness, impairment or disease. Under Part E of the Act, compensation for any consequential injury, illness, impairment or disease consists of medical benefits for that injury, illness, impairment or disease, as well as any additional monetary benefits that are consistent with the terms of § 30.505(d).

(c) Rejected compensation payments, or shares of compensation payments, shall not be distributed to other eligible surviving beneficiaries, but shall be returned to the Fund.

(d) No covered Part B employee may receive more than one lump-sum payment under Part B of EEOICPA for any occupational illnesses he or she contracted. However, any individual, including a covered Part B employee who has received a lump-sum payment for his or her own occupational illness or illnesses, may receive one lump-sum payment for each deceased covered Part B employee for whom he or she qualifies as an eligible surviving beneficiary under Part B of the Act.

§ 30.507 What compensation will be provided to covered Part B employees who only establish beryllium sensitivity under Part B of EEOICPA?

The establishment of beryllium sensitivity does not entitle a covered Part B employee, or the eligible surviving beneficiary or beneficiaries of a deceased covered Part B employee, to any lump-sum payment provided for under Part B. Instead, a covered Part B employee whose sole accepted occupational illness is beryllium sensitivity shall receive beryllium sensitivity monitoring, as well as medical benefits for the treatment of this occupational illness in accordance with § 30.400.

§ 30.508 What is beryllium sensitivity monitoring?

Beryllium sensitivity monitoring shall consist of medical examinations to confirm and monitor the extent and nature of a covered Part B employee's beryllium sensitivity. Monitoring shall also include regular medical examinations, with diagnostic testing, to determine if the covered Part B employee has established chronic beryllium disease.

§ 30.509 Under what circumstances may a survivor claiming under Part E of the Act choose to receive the benefits that would otherwise be payable to a covered Part E employee who is deceased?

(a) If a covered Part E employee dies after filing a claim but before monetary benefits are paid under Part E of the Act, and his or her death is from a cause other than a covered illness, his or her survivor can choose to receive either the survivor benefits payable on account of the death of that covered Part E employee, or the monetary benefits that would otherwise have been payable to the covered Part E employee.

(b) For the purposes of this section only, a death "from a cause other than a covered illness" refers only to a death that was *solely* caused by a non-covered illness or illnesses. Therefore, the choice referred to in paragraph (a) of this section will not be available if a covered illness contributed to the death of the covered Part E employee in any manner. In those instances, survivor benefits will still be payable to the claimant, but he or she cannot choose to receive the monetary benefits that would have otherwise been payable to the deceased covered Part E employee in lieu of survivor benefits.

(c) OWCP only makes impairment determinations based on rationalized medical evidence in the case file that is sufficiently detailed and meets the various requirements for the many different types of impairment determinations possible under the AMA's *Guides*. Therefore, OWCP will only make an impairment determination for a deceased covered Part E employee pursuant to this section if the medical evidence of record is sufficient to satisfy